

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROBERT WILLIS,

Plaintiff,

v.

BONNIE MOSLEY, *et al.*,

Defendants.

Case No. 1:07-CV-214

Hon. Richard Alan Enslen

JUDGMENT

Plaintiff Robert Willis has objected to United States Magistrate Judge Ellen S. Carmody's Report and Recommendation of May 4, 2007. Judge Carmody has recommended summary dismissal of Plaintiff's civil rights suit pursuant to 28 U.S.C. §§ 1915(e)(2) & 1915A. The Court reviews such Objections *de novo* in accordance with 28 U.S.C. § 636.

Upon such review, the Court determines that the Objections should be denied and the case dismissed for the reasons contained in the Report. United States Probation Officer Defendants are entitled to absolute quasi-judicial immunity for judicial-like conduct in preparing a Pre-Sentence Investigation Report. *Dorman v. Higgins*, 821 F.2d 133, 136-39 (2d Cir. 1987); *see also Timson v. Wright*, 532 F.2d 552, 553 (6th Cir. 1976). As such, the Magistrate Judge properly concluded that Defendants are immune from suit seeking monetary damages.

Although Plaintiff does argue that this immunity does not prevent injunctive relief, this argument overlooks the holdings in such cases as *Heck v. Humphrey*, 512 U.S. 477, 486-87 (1994) and *Preiser v. Rodriguez*, 411 U.S. 475, 484 & 493 (1973). Plaintiff cannot show an entitlement to injunctive relief in a civil rights suit until his sentence has been reversed on appeal, expunged or

corrected by state or federal post-judgment remedies (*i.e.*, habeas corpus). *Id.*; *cf. Muhammad v. Close*, 540 U.S. 749, 751-52 (2004) (permitting injunctive relief **when the suit does not challenge the length of incarceration**). As such, the claims for injunctive relief are barred by *Heck*.

For the reasons given here and in the Report and Recommendation, the Court also discerns no good faith basis for an appeal and will so certify pursuant to 28 U.S.C. § 1915(a). *See McGore v. Wrigglesworth*, 114 F.3d 601, 610 (6th Cir. 1997).

THEREFORE, IT IS HEREBY ORDERED that Plaintiff Robert Willis' Objections (Dkt. No. 7) are **DENIED**, the Report and Recommendation (Dkt. No. 4) is **ADOPTED** and the Complaint is **DISMISSED** pursuant to 28 U.S.C. §§ 1915(e)(2) and 1915A(b)(1) due to failure to state a claim.

IT IS FURTHER ORDERED that this dismissal will count as a "strike" for the purposes of 28 U.S.C. § 1915(g).

IT IS FURTHER ORDERED that the Court certifies pursuant to 28 U.S.C § 1915(a) that an appeal of the Judgment would not be taken in good faith.

DATED in Kalamazoo, MI:
August 1, 2007

/s/ Richard Alan Enslen
RICHARD ALAN ENSLEN
SENIOR UNITED STATES DISTRICT JUDGE